



PATENT

Customer No. 22,852

Attorney Docket No. 08888.0135-02000 (formerly 03804.0135-02000)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
)  
Francis BLANCHE *et al.* ) Group Art Unit: 1632  
)  
Serial No.: 09/981,803 ) Examiner: Scott D. Priebe  
)  
Filed: October 19, 2001 )  
)  
For: DNA MOLECULES, PREPARATION )  
THEREOF AND USE THEREOF IN )  
GENE THERAPY )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER**

Sir:

Petitioner ("assignee") GENCELL S.A., duly organized under the laws of France and having its principal place of business at 72-82 rue Leon Geffroy, 94400 Vitry-sur-Seine, FRANCE, represents that it is the only assignee of the entire right, title and interest in and to the above-identified application, Serial No. 09/981,803, filed October 19, 2001, for DNA MOLECULES, PREPARATION THEREOF AND USE THEREOF IN GENE THERAPY in the name of Francis BLANCHE *et al.* as indicated by assignments duly recorded in the United States Patent and Trademark Office at Reel 013567, Frame 0756, and is the only assignee of application Serial No. 08/894,511, filed August 19, 1997 (now U.S. Patent No. 6,143,530), for CIRCULAR DNA EXPRESSION CASSETTES FOR IN VIVO GENE TRANSFER in the name of Joel CROUZET *et al.* as

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indicated by assignments duly recorded in the United States Patent and Trademark Office at Reel 013565, Frame 0287.

To obviate a double patenting rejection, GENCELL S.A. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Serial No. 09/981,803, which would extend beyond the expiration date of Patent No. 6,143,530 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,143,530, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on Application No. 09/981,803 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of Patent No. 6,143,530, as presently shortened by any terminal disclaimer, in the event that Patent No. 6,143,530 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$110.00 is being filed with this disclaimer.

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If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee GENCELL S.A.

I hereby declare that all statements made of my own knowledge and belief are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: November 18, 2003

By: Carol P. Einaudi  
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